Ontario

Financial Services Commission of Ontario

STATEMENT OF PRIORITIES

&

STRATEGIC DIRECTIONS

June 2011

Introduction

The Financial Services Commission of Ontario (FSCO) is an integrated financial services regulator. FSCO is an agency of the Ministry of Finance established under the Financial Services Commission of Ontario Act, 1997 (FSCO Act). It regulates insurance, pension plans, loan and trust companies, credit unions and caisses populaires, mortgage brokerages and administrators and co-operative corporations in Ontario.

FSCO's legislative mandate is to provide regulatory services that protect the public interest and enhance public confidence in the sectors it regulates.

FSCO is comprised of a five-member commission, the Superintendent of Financial Services and staff.

FSCO in Profile

FSCO delivers regulatory services that protect the public interest, support a strong financial services industry and build public confidence in the regulated sectors. The following chart covers FSCO's core regulatory activities.

As of March 2011, FSCO licensed or registered:

- 361 insurance companies
- 8,569 pension plans
- 167 credit unions and caisses populaires
- 57 loan and trust companies
- 1,213 mortgage brokerages
- 2,684 mortgage brokers
- 8,757 mortgage agents
- 85 mortgage administrators
- 1,639 co-operative corporations
- 44,203 insurance agents
- 4,420 corporate insurance agencies
- 1,499 insurance adjusters

Customer Service Commitment

FSCO's Customer Service Commitment posted on our website outlines the levels of quality service the public and our regulated sectors can expect from FSCO. This commitment identifies FSCO's service principles which are designed to meet or exceed client needs and expectations. In addition, it supports service excellence and Ontario Public Service values.

2011 Priorities

Section 11 of the FSCO Act requires that FSCO publish in *The Ontario Gazette* and deliver to the Minister of Finance by June 30 of each year a statement setting out FSCO's proposed priorities.

This, FSCO's 14th Statement of Priorities, outlines FSCO priorities and initiatives to meet changing economic and marketplace conditions in the coming year. The statement includes a report-back section listing FSCO's key accomplishments in the previous year.

As an organization, FSCO is committed to being a progressive and fair regulator

From November 2010 to March 2011 FSCO met with stakeholders from across the regulated sectors and developed a Strategic Plan for 2011-2014. The 2011 priorities and initiatives included in this Statement of Priorities are consistent with the direction FSCO identified in that Strategic Plan.

Philip Howell
Chief Executive Officer and
Superintendent of Financial Services

John M. Solursh
Chair
Financial Services Commission of Ontario
Financial Services Tribunal

Strategic Directions

FSCO has a legislative mandate to provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors. As an organization, it is committed to being a progressive and fair regulator, working with stakeholders to support a strong financial services industry. FSCO's current vision, priorities and strategies were developed to support its legislative mandate.

Legislative Mandate
To provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors.
Vision
To be an effective regulator that protects the public interest and supports a strong financial services sector.
Priorities
Risk Based Delivery
Foster a Co-ordinated National Approach to Regulatory Issues
Continuous Service Improvement
Strategies
Review and recommend changes to better implement controls and mitigate risk
Increase efficiency, effectiveness and transparency
Communicate, share knowledge and engage our staff and stakeholders
Co-ordinate with other Canadian regulators in the financial services industry

FSCO Priorities

In order to achieve its legislative mandate FSCO has established three priorities.

- Risk Based Delivery
- Foster a coordinated National Approach to Regulatory Issues
- Continuous Service Improvement

Strategies and initiatives have been developed in order to achieve these priorities. The following chart provides the details of these strategies and initiatives.

FSCO Priorities, Strategies, Initiatives at a Glance

LEGISLATIVE MANDATE	To provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors.
VISION	To be an effective regulator that protects the public interest and supports a strong financial services sector.
PRIORITIES	***Risk Based Delivery*** ***Continuous Service Improvement*** ***Foster a Coordinated National Approach to Regulatory Issues***

STRATEGIES	Review and recommend changes to better mitigate risk	Increased efficiency, effectiveness and transparency	Communicate, share knowledge and engage our staff and stakeholders	Coordinate with other Canadian regulators in the financial services industry
INITIATIVES	Conduct market conduct audit reviews of compliance with the 2010 auto insurance reforms including Statutory Accident Benefits.	Continue to build an enterprise licensing and stakeholder relationship system.	Raise awareness of filing requirements and the relevant legislation and regulations by planning and hosting an information session for insurance company representatives.	Work with Ministry of Finance to review major parts of the Insurance Act such as life insurance and accident and sickness insurance, as well as other insurance-related legislation.
	Work with stakeholders to identify measures that will reduce fraud and abuses in the auto insurance industry.	Expand the use of online portal for pension plan administrators and other parties to obtain information and submit additional prescribed documents online.	Develop new online media channels to engage stakeholders.	Examine CCIR recommendations to reflect changes in distribution channels.
	Undertake long-term initiatives from the 2010 auto insurance reforms – Minor Injury Treatment Protocol, Catastrophic Impairment definition, and closed claims study.	Develop electronic records management of pension documentation for access by external and internal stakeholders.	Continue to enhance pension stakeholder outreach and education.	Participate in a Working Group established by CCIR to gather the facts surrounding the use of credit information by insurers.
	Consider additional tools in enforcement of insurance regulation such as administrative monetary penalties.	Initiate electronic mediation scheduling and explore feasibility of private sector mediation/arbitration service providers to assist with increased workload resolution services.		
	Perform market conduct review of suitability of product recommendations for insurance.	Increase regulatory efficiency and effectiveness in solvency regulation of insurance companies.		
	Implement an enhanced risk based regulation approach for pension plans.			
	Increase compliance by mortgage brokerages.			
	Carry out five year statutory reviews of the Mortgage Brokerage, Lenders and Administrators Act, and the Credit Unions and Caisses Populaires Act.			

FSCO Initiatives in Detail

The following strategies and initiatives have been developed in order to achieve our priorities.

Review and recommend changes to better mitigate risk

Conduct market conduct audit reviews of compliance with the 2010 auto insurance reforms including Statutory Accident Benefits.

Automobile insurance represents approximately 56 percent of all general insurance premiums paid by Ontario residents. The auto insurance product and system changed in 2010 and this also increases risk of non compliance with the law. FSCO will be assessing how well insurance companies have implemented the changes to ensure that consumers are being treated fairly and in accordance with the law. A high compliance rate supports achieving those outcomes. FSCO intends to conduct compliance audits, with a special emphasis on governance and controls in place at insurance companies.

Work with stakeholders to identify measures addressing fraud and abuse in auto insurance industry.

Control over fraud is also important since the cost of fraud increases the cost of insurance premiums. FSCO will work with stakeholders and the Ministry of Finance to strengthen existing tools and develop additional measures to address fraud and abuse in the automobile insurance system. FSCO will support the Ministry of Finance in establishing an anti-fraud taskforce to determine the scope of auto insurance fraud in Ontario as well as working groups of stakeholders to develop collaborative approaches and solutions. FSCO will support the Ministry of Finance in making recommendations regarding detection, investigation, and enforcement and consumer education.

Consider additional tools in enforcement of insurance regulation such as administrative monetary penalties.

FSCO will work with the Ministry of Finance to enhance regulatory effectiveness by considering the enforcement tool of administrative monetary penalties in insurance.

Undertake long-term initiatives extending from 2010 auto insurance reforms – Minor Injury Treatment Protocol, Catastrophic Impairment definition, and closed claims study.

As part of the 2010 auto insurance reforms, the government announced a commitment to consult with stakeholders on possible amendments to the definition of "catastrophic impairment." FSCO appointed a panel of medical experts to review the definition in December 2010. FSCO is committed to consulting with stakeholders on the report from the panel and making final recommendations to the Ministry of Finance this year.

The government also announced an initiative to develop a treatment protocol for minor injuries that reflects the current scientific and medical literature. This project began in 2010 and will be completed in 2014. A consultant will oversee the work to provide FSCO with an evidence-based treatment protocol, clinical prediction rules to identify patients at risk of becoming chronic, and a marketing strategy for educating the public and health providers on the new protocol.

FSCO will be working with the auto insurance industry to conduct a study of closed automobile insurance claims. Many existing data sources do not provide a detailed breakdown of claims costs. The results of the study will assist industry and government actuaries in properly assessing the impact of past and future auto insurance reforms.

Perform market conduct review of suitability of product recommendations for insurance.

Insurance products are complex. Recent studies on financial literacy in Canada have shown that many consumers have difficulty in understanding many products. This creates a risk for consumers. Insurance agents and companies have an important role to ensure these consumers are empowered to make

informed decisions and are presented with suitable product recommendations. A market conduct review will be undertaken to determine how the industry is ensuring that these two outcomes are achieved. The focus of the review will be to understand and assess the processes agents use in making recommendations to consumers and the processes in place at insurance companies when developing and distributing products. The review will also consider the actions agents and insurance companies are taking to support the financial literacy of their clients.

Implement an enhanced risk based regulation approach for pension plans.

The goal of the enhanced risk based regulation project for pension plans is to protect plans and plan beneficiaries by developing an enhanced risk based program of monitoring, examinations and investigations directed at pension plans that may be at risk of failure or of significant under-funding. This is in line with FSCO's strategic priority of conducting regulatory activities in accordance with risk based principles.

In March 2011, FSCO published a consultation paper on a proposed risk based regulation framework. The framework will be finalized based on input from pension stakeholders. For 2011-12, FSCO will develop the detailed design features of the new framework including risk indicators and measures, risk assessment methodology, regulatory response actions, and supporting business processes.

In 2012-13, FSCO will prepare for the rollout and implementation of the risk based monitoring program and develop a plan for ongoing evaluation of the program.

Increase compliance by mortgage brokerages.

The Mortgage Brokerages, Lenders, and Administrators Act that came into effect on July 1, 2008, enhanced protections and fair treatment of borrowers and private investors. Achieving these outcomes requires a high compliance rate with the law. FSCO will employ multiple strategies including education and outreach, risk based compliance audits, targeted enforcement activities, implementing a new mandatory continuing education policy for agents and brokers, and working with industry associations to achieve these outcomes.

Carry out five year statutory reviews of the Mortgage Brokerage, Lenders and Administrators Act, and the Credit Unions and Caisses Populaires Act.

FSCO will assist the Ministry of Finance in conducting these reviews to ensure that the law stays current so that risks in the marketplace are mitigated.

Increased efficiency, effectiveness and transparency

Continue to build an Enterprise Licensing and Stakeholder Relationship System.

FSCO continuously looks for ways to increase efficiency and to provide quality service to stakeholders and clients. FSCO continues to develop a stakeholder relationship system that will provide the tools and resources to ensure that it has a complete view of the individuals and businesses it regulates. The new system will support FSCO's focus on user needs, better manage risk and facilitate work with other regulators.

Expand the use of online portal for pension plan administrators and other parties to obtain information and submit additional prescribed documents online.

In March 2010, FSCO launched the Pension Services Portal to provide stakeholders with a secure electronic channel for the submission of the Annual Information Return (AIR) in a flat file format. In September 2010, the portal was enhanced to provide for the filing of online fillable forms. The AIR was selected as the first of the prescribed pension filings to allow online filing.

Development of the portal continues with planned expansion to encompass all other prescribed pension filings. Once the system

can accept all prescribed filings, work will begin on electronic submission of other applications and automatic notifications. It is anticipated that ultimately the website portal will become the conduit between FSCO and pension stakeholders for the submission of all filings and applications.

Develop electronic records management of pension documentation for access by external and internal stakeholders.

Across FSCO solutions are being developed to deal with the growing volume of paper in archival storage.

In 2010 the Pension Division applied a solution with the launch of the Pension Services Portal.

FSCO will pilot an additional solution, electronic imaging, in 2011. Once key documents have been imaged, pension stakeholders will have an effective and efficient method of access to historical pension plan documentation. FSCO will apply these as well as other appropriate solutions to other branches and divisions.

Initiate electronic mediation scheduling and explore feasibility of private sector mediation/arbitration service providers to support the increased workload.

As part of FSCO's legislative mandate to provide fair, accessible, cost-effective and timely dispute resolution services, electronic scheduling will provide the parties to mediation with the ability to book mediation meetings using an online scheduling system administered by FSCO.

FSCO is exploring the feasibility of engaging the services of external dispute resolution service providers, to deal with the significant backlog that has developed as a result of unprecedented increases in mediation applications.

Increase regulatory efficiency and effectiveness in solvency regulation of insurance companies.

FSCO will work with the Ministry of Finance to assess whether changes are required in the law to provide for a more effective, efficient and harmonized approach to solvency regulation of insurance companies incorporated in Ontario.

Communicate, share knowledge and engage our staff and stakeholders

Raise awareness of filing requirements and the relevant legislation and regulations by planning and hosting an information session for insurance company representatives.

FSCO will raise awareness of automobile insurance filing requirements and the relevant legislation and regulations by planning and hosting an information session for insurance company representatives. Over the past two years, FSCO has taken steps to improve the automobile insurance rate filing process. Improvements have included clarifying the filing guidelines, enhanced communication to insurers on activities and issues, and e-filing implementation.

As a member of the Canadian Automobile Insurance Rate Regulators (CARR) association, FSCO is assisting in the development of a training session for regulatory staff on rate filing analysis. FSCO is also hosting the CARR conference on automobile insurance issues that will include participation from the industry and from other regulators.

Develop new online media channels to engage stakeholders.

FSCO will explore expanding communications channels to better engage stakeholders.

Continue to enhance pension stakeholder outreach and education.

FSCO has launched a multi-year project focusing on outreach and educational efforts targeted to pension stakeholders. Initiatives will include the development of regulatory policies supporting legislative changes to the Pension Benefits Act, and governance matters to support the risk based regulation initiative.

FSCO will also hold additional webinars on various topics of interest. The webinars will be posted online. FSCO will develop an online tool kit for pension plan members covering pension plans as well as important recent changes. FSCO will also develop a tool kit for pension plan administrators.

Coordinate with other Canadian regulators in the financial services industry

Work with Ministry of Finance to review major parts of the Insurance Act such as life insurance and accident and sickness insurance, as well as other insurance-related legislation.

FSCO will work with the Ministry of Finance to consider changes to further promote consumer protection and harmonization with other Canadian jurisdictions. This will be the first review of these major parts of the legislation since 1962.

The provisions in the Insurance Act dealing with insurance distribution were enacted many years ago when insurance was largely distributed by agents representing a single company. There is now more diversity in distribution channels. The Canadian Council of Insurance Regulators (CCIR) recently published a paper on managing general agencies. CCIR is researching the role of MGAs in the distribution of life insurance and the nature of risks involved.

Examine CCIR recommendations to reflect changes in distribution channels.

Participate in a Working Group established by CCIR to gather the facts surrounding the use of credit information by insurers.

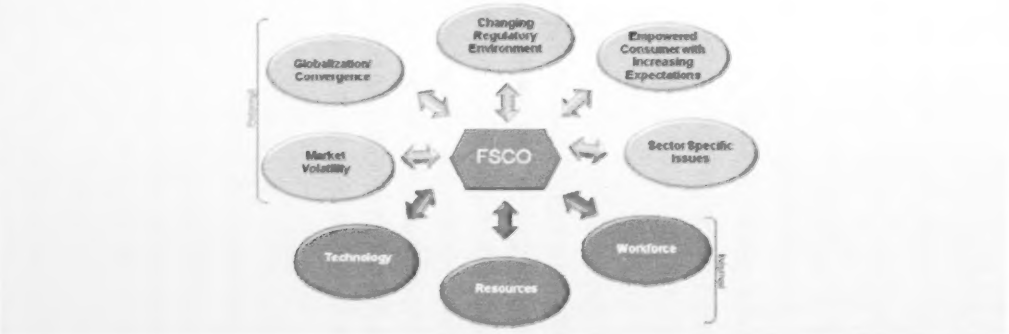
In order to get a clear understanding of what is happening in the marketplace, FSCO is participating in a Working Group established by CCIR to gather the facts surrounding the use of credit information by insurers.

FSCO's Approach

To fulfill its legislative mandate and set effective organizational priorities, FSCO considers environmental risks and factors influencing the financial services industry. FSCO identifies risks that may impact our capacity to conduct business operations and ensure a high level of regulatory oversight. Over the next three years, we will continue to strengthen and enhance this risk based regulatory framework.

The Environment

The economic recovery is well underway in Ontario. All major indicators have improved from lows posted during the recession. Several economic indicators point to stronger activity in the financial services sector. Ontario's real GDP is growing while consumer confidence is up significantly since the same period in 2010.



With the spread of information technology, consumers have different expectations of financial service providers. At the same time, technological changes are shaping new products and distribution channels for financial products. This is a changing environment where the role of the regulator is also evolving.

In order to ensure we are providing effective regulatory services in this environment, it is important that we make the best use of limited resources as well as engage regularly with the sectors.

FSCO has established committees and advisory groups in the insurance, pensions, cooperative corporations, credit unions and caisses populaires and mortgage brokerage sectors. Meeting with these groups promotes a dialogue where the objectives are to improve regulation, gain an understanding of current and emerging issues and streamline the system.

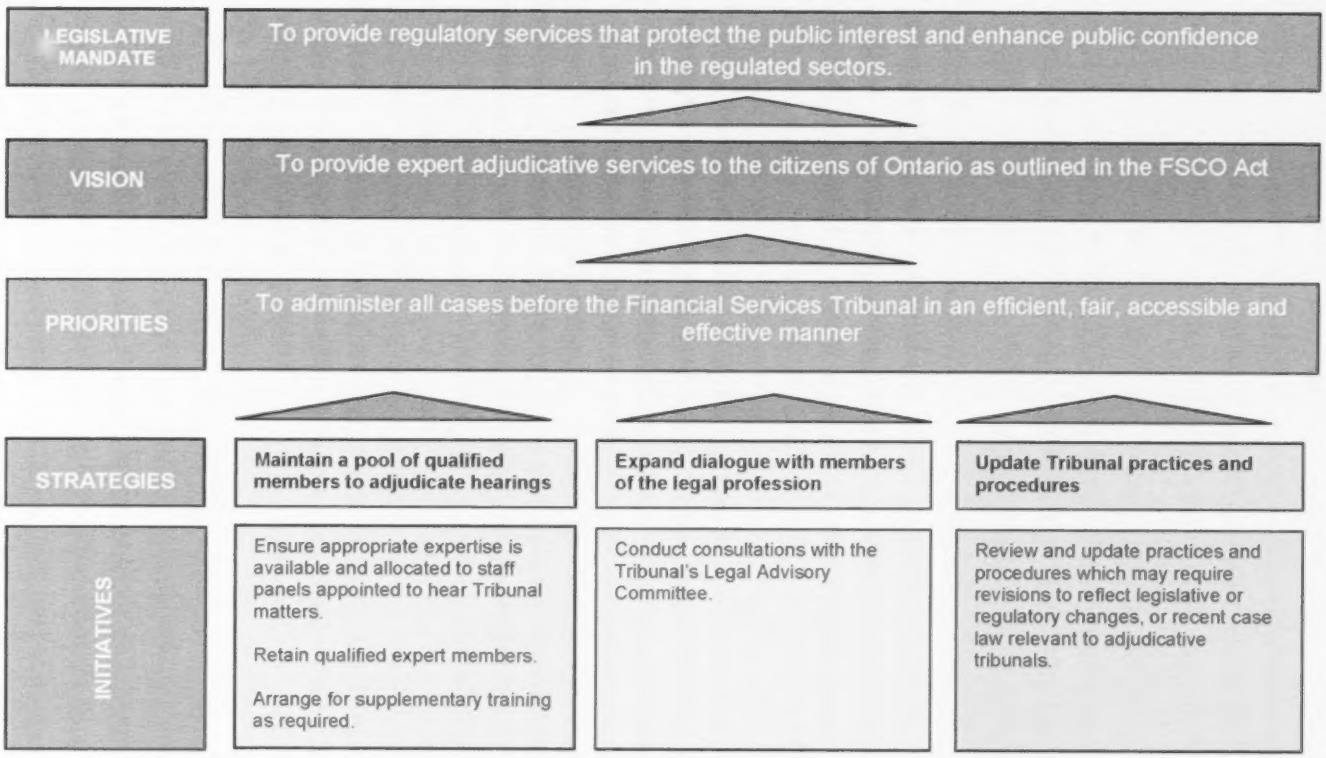
Performance Measures

FSCO works to continuously improve its performance throughout the organization in order to deliver its services in a cost efficient and effective manner.

To support this, FSCO will develop improved performance measures and establish standards against which it can be judged in all the sectors it regulates. The existing measures will be reviewed and updated over the coming year.

FSCO is also working on new ways to measure outcomes and report on results.

Financial Services Tribunal Priorities at a Glance


LEGISLATIVE MANDATE
To provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors.
VISION
To provide expert adjudicative services to the citizens of Ontario as outlined in the FSCO Act
PRIORITIES
To administer all cases before the Financial Services Tribunal in an efficient, fair, accessible and effective manner
STRATEGIES
Maintain a pool of qualified members to adjudicate hearings
Expand dialogue with members of the legal profession
Update Tribunal practices and procedures
INITIATIVES
Ensure appropriate expertise is available and allocated to staff panels appointed to hear Tribunal matters.
Retain qualified expert members.
Arrange for supplementary training as required.
Conduct consultations with the Tribunal's Legal Advisory Committee.
Review and update practices and procedures which may require revisions to reflect legislative or regulatory changes, or recent case law relevant to adjudicative tribunals.

Financial Services Tribunal Initiatives in Detail

The Financial Services Tribunal (FST) is an expert adjudicative tribunal established under the FSCO Act. It is comprised of members appointed to it on a part time basis.

The FST is charged with hearing applications and appeals from certain decisions made or proposed by the Superintendent, or other authorized persons or entities, under a range of Ontario statutes governing financial services matters including:

- the Pension Benefits Act
- the Insurance Act
- the Mortgage Brokerages, Lenders and Administrators Act, and
- the Credit Unions and Caisses Populaires Act.

Maintain a pool of qualified members to adjudicate hearings

Ensure appropriate expertise is available and allocated to staff panels appointed to hear Tribunal matters.

Retain qualified expert members.

Arrange for supplementary training as required.

The scope of matters qualifying for an application or appeal to the FST has been substantially expanded over the past few years resulting in an increasingly diverse workload for the FST.

Panels are appointed to hear applications or appeals with consideration given to their expertise in the area of financial services that will be the subject matter of the hearing. As well, consideration is given to ensuring that the panel has appropriate knowledge about the principles of administrative law reflected in the Statutory Powers Procedure Act and applicable court decisions. This is so that matters can be addressed in a fair, open, timely, efficient and cost effective manner.

An FST member who is not on the panel may be assigned to act as a mediator to help the parties reach a resolution and avert a disputed hearing.

A key focus of the FST is the maintenance of member expertise in financial services and administrative law. Members pursue ongoing education and training from internal and external providers. Internal training is on a generic (not case-specific) basis.

Expand dialogue with members of the legal profession

Conduct consultations with the Tribunal's Legal Advisory Committee.

External training includes programs and materials provided primarily by the Society of Ontario Adjudicators and Regulators.

Update Tribunal practices and procedures

Review and update practices and procedures which may require revisions to reflect legislative or regulatory changes, or recent case law relevant to adjudicative tribunals.

Consistent with its status as an independent tribunal, the FST seeks advice on practices and performance from the legal profession. The FST's established Legal Advisory Committee provides most of the guidance.

The FST's rules of practice and procedure, including its prescribed forms, are currently undergoing intensive review. The rules need to be updated to reflect changes to principles of administrative law under applicable legislation, case law, and applicable financial services legislation.

Consultation with the Legal Advisory Committee is taking place and may be extended to other stakeholders as appropriate. Some recent issues addressed by the FST in the context of its procedures have included confidentiality, freedom of information, and persons entitled to appear before tribunals under the Law Society Act.

Report Back on Priorities and Key Initiatives from 2010

FSCO's Statement of Priorities includes a report on the progress of key initiatives identified in the previous year's statement and their intended benefits to stakeholders and the regulatory system.

Many of FSCO's initiatives are complex, span several years and involve various partners, such as industry associations, national organizations of regulators, and the federal and provincial governments.

Support Automobile Insurance Reform

- Worked with the Ministry of Finance to implement changes and to provide stakeholders with guidance on implementing the Ontario government's announced package of automobile insurance reforms. FSCO is closely monitoring the reforms post implementation, in particular the effectiveness of the minor injury cap.

- Released a Request for Proposal for a consultant to develop a new minor injury treatment protocol which will provide a continuum of care for those injured in auto accidents.

- Researched the feasibility of conducting a study of closed automobile insurance claims to understand the factors contributing to cost changes and create an up-to-date framework for projecting the impact of auto insurance product design or system changes.

- Appointed a panel of medical experts to recommend changes to the definition of catastrophic impairment in the Statutory Accident Benefits Schedule and to develop minimum standards setting out the training and experience required for assessors of catastrophic impairment.

- Improved the auto insurance filing approval process by enhancing the functionality and reporting capability of the existing case management system. As of January 1, 2011, insurers are required to submit their auto insurance filings through the Internet.

- Moved to a new platform and introduced enhancements to the automated dispute resolution case management systems. The changes have resulted in improved efficiencies in the mediation system.

Modernize and strengthen Ontario's pension system

- Consulted with Advisory Committee and stakeholder group members and released the proposed framework for risk based regulation for consultation.

- Launched an online pension portal which provides stakeholders with a secure electronic channel for the submission of Annual Information Returns (AIRs) in a flat file format. In September 2010, the portal was expanded to provide the filing of AIRs via online fillable forms.

- Posted consultation paper on best practices for plan administrators on how to deal with member complaints and inquiries. Implemented enhanced tracking of general inquiries by type of issue. Posted information to assist plan members in making inquiries.

- Provided topical webinars that focused on educating and informing plan administrators and other pension stakeholders on current issues and legislative changes.

Improve compliance with the Mortgage Brokerages, Lenders and Administrators Act, 2006

- Prepared a draft paper and consulted with industry stakeholders and other regulators on implementing a new mandatory continuing education policy for the mortgage broker sector that is compatible with requirements in other Canadian jurisdictions.

- Continued to enhance risk based monitoring, examination and enforcement activities to promote industry compliance with the Mortgage Brokerages, Lenders and Administrators Act, 2006, and regulations. Activities including suitability reviews of new applicants, follow-ups with brokerages without a principal broker, and review of all administrators' policies and procedures resulted in improved compliance rates.

- Initiated a multi-year project to develop a new Enterprise Licensing Stakeholder Relationship System (ELSRS) that will provide consumers and stakeholders integrated, easy-to-use, and seamless access to our services. The design of the ELSRS will provide for one centralized system that will improve risk management, provide better services to stakeholders and facilitate work with other regulators. Work is underway to develop change management, communication, and engagement strategies. A Risk Matrix was developed that identifies risks and mitigation strategies. A review of system demonstrations from organizations that conduct similar work to the project cross-enterprise team has been completed.

Foster a coordinated national approach to regulatory issues

- Working with the Joint Forum, developed plans for consultation with product manufacturers and intermediaries to ensure consumers are offered suitable products and are able to make informed decisions. Further work is to be done with stakeholder associations in preparation for the consultations.

- A proposal for the establishment of a database for sharing information on enforcement actions in the insurance sector was approved by the CCIR and a CCIR Working Group has been set up to work on this initiative.

- Finalized a new proposed agreement to establish clear rules for the administration and regulation of multi jurisdictional pension plans for consideration by governments. Enabling legislation to adopt the agreement is in place in Quebec, Alberta and Ontario. Administrative procedures developed for implementation of the agreement were approved at CAPSA's September 2010 meeting. In May 2011, the Governments of Ontario and Quebec announced the signing of the Agreement Respecting Multi-Jurisdictional Pension Plans.

- Working with CAPSA developed draft guidelines for pension plan investment and funding following consultation on a discussion paper. The guidelines were released for public consultation.

- The Agencies Regulation Committee of CCIR released a consultation paper on Managing General Agencies. FSCO is a member of this committee.

- Implemented the new, harmonized profiles in rate filings in Ontario as part of the auto insurance reforms. Ontario was the first jurisdiction to implement the new harmonized profiles in rate filings. Other jurisdictions intend to adopt the profiles as filing requirements over the next year.

Continuous improvement in the delivery of our services

- Continued to work on implementing service standards and measurements for complaint handling, general inquiries, licensing and registration, and internal inquiries. Worked to develop program-level service standards, including consultation with stakeholders, staff and members of the public.

- Worked with the Ministry of Finance, the Deposit Insurance Corporation of Ontario and credit unions and caisses populaires to support their transition to the new modernized regulations for the sector. Regulation 238/09 (Cost of Borrowing and Disclosure to Borrowers) came into force on October 1, 2010. FSCO staff have been trained to handle any complaints.